



PUBLIC NOTICE

Federal Communications Commission
45 L St., N.E.
Washington, D.C. 20554

News Media Information 202 / 418-0500
Internet: <http://www.fcc.gov>

DA 23-198
Released: March 10, 2023

**DOMESTIC SECTION 214 APPLICATION FILED
FOR THE TRANSFER OF CONTROL OF
POINT BROADBAND HOLDINGS, LLC AND ITS SUBSIDIARIES
TO BP BROADBAND AGGREGATOR, L.P.**

NON-STREAMLINED PLEADING CYCLE ESTABLISHED

WC Docket No. 23-52

Comments Due: March 24, 2023
Reply Comment Due: March 31, 2023

By this Public Notice, the Wireline Competition Bureau seeks comment from interested parties on an application filed by BP Broadband Aggregator, L.P. (BP Broadband); Point Broadband Holdings, LLC (Point Broadband); Sunset Fiber, LLC (Sunset Fiber); Sunset Digital Communications, LLC (Sunset Digital); Point Broadband of Alabama, LLC (Point Broadband-AL); Point Broadband Fiber Holding, LLC (Point Broadband Fiber) and Point Broadband Acquisition, LLC (Point Broadband Acquisition) (Sunset Digital, Sunset Fiber, Point Broadband-AL, Point Broadband Fiber and Point Broadband Acquisition) (Licensees) (collectively, Applicants), pursuant to section 214 of the Communications Act of 1934, as amended, and sections 63.03-04 of the Commission's rules,¹ requesting consent to transfer control of Point Broadband and Licensees to BP Broadband.²

Point Broadband, a Delaware limited liability company, serves as the parent company of Point Broadband Fiber, an eligible telecommunications carrier that provides telecommunications services in parts of Tennessee.³ Point Broadband Fiber wholly owns Sunset Digital, Sunset Fiber

¹ See 47 U.S.C. § 214; 47 CFR §§ 63.03-04.

² Joint Application of BP Broadband Aggregator, L.P., Point Broadband Holdings, LLC, Sunset Fiber, LLC, et al. for Grant of Authority to Transfer Control, WC Docket No. 23-52 (filed Feb. 10, 2023) (Application). Applicants filed a supplement to their Application on March 6, 2023. Letter from Andrew D. Lipman, et al., Counsel for BP Broadband Aggregator, L.P. and Matthew S. DelNero, et al., Counsel for Point Broadband Holdings, LLC to Marlene H. Dortch, Secretary, FCC, WC Docket No. 23-52 (filed Mar. 6, 2023) (Supplement). Applicants also filed applications for the transfer of authorizations associated with international services and wireless services. Any action on this domestic section 214 application is without prejudice to Commission action on other related, pending applications.

³ Supplement at 1; Application at 4, 15. Point Broadband Fiber also provides broadband and interconnected voice-over-Internet Protocol (VoIP) services in Alabama, Georgia, Michigan, New York, Ohio, Maryland, and

and Point Broadband-AL.⁴ Sunset Digital and Sunset Fiber, LLC provide telecommunications services in parts of Virginia.⁵ Sunset Digital is a recipient of Connect America Fund (CAF) Phase II Auction 903 support in Tennessee and Virginia.⁶ Point Broadband Fiber is an auction winner for Rural Digital Opportunity Fund (RDOF) Phase I support in Alabama, Georgia, New York, Michigan, and Virginia⁷ and CAF-II Phase II Auction support in Michigan.⁸ GTCR Investment XIII LLC (GTCR), a Delaware corporation, currently holds approximately 61.2% of the fully-diluted equity interests of Point Broadband through various investment funds, with Point Broadband's remaining equity being held by management and outside investors.⁹

Applicants state that BP Broadband, a Delaware limited partnership, serves as an investment vehicle that was created for the purposes of the proposed transaction and aggregates the investment of private equity and infrastructure funds managed by Berkshire Partners LLC (Berkshire Partners).¹⁰ BP Broadband does not provide telecommunications services and does not hold any authorizations.¹¹ Applicants state that no person or entity that directly or indirectly owns or controls

Virginia. Supplement at 1. Point Fiber Broadband participates in the Affordable Connectivity Program. Application at 16.

⁴ Application at Exh. A, Chart 2 (Pre-Close Ownership of Licensees).

⁵ Supplement at 1. Sunset Fiber participates in the E-Rate and Rural Health Care programs. Application at 16.

⁶ *Id.* at 1, 3 (Supplemental Exhibit C); *Connect America Fund Phase II Auction Support Authorized for 387 Winning Bids*, AU Docket No. 17-182, WC Docket No. 10-90, Public Notice, 34 FCC Rcd 9406, Attach A (Authorized Recipients Summary) (WCB/OEA 2019).

⁷ Supplement at 1, 3 (Supplemental Exhibit C); *RDOF Support Authorized for 466 Winning Bids*, AU Docket No. 20-34, WC Docket No. 19-126, WC Docket No. 10-90, Public Notice, 36 FCC Rcd 13574, Attach. A (Authorized Recipients Summary) (WCB/OEA 2021).

⁸ Supplement at 1, 3 (Supplemental Exhibit C); *Connect America Fund Phase II Auction Support Authorized for 2,413 Winning Bids*, AU Docket No. 17-182, WC Docket No. 10-90, Public Notice, 34 FCC Rcd 5966 (WCB 2019) (authorizing Crystal Automation Systems' to provide service to 17,610 locations in Michigan); *see also Notice of Domestic Section 214 Authorization Granted*, WC Docket No. 20-261, Public Notice, 35 FCC Rcd 10494 (WCB 2020) (authorizing Point Broadband Fiber's acquisition of the CAF II obligations and support of Crystal Automation Systems, Inc.).

⁹ Application at 6, Exhibit A Chart 1: Pre-Close Ownership of Point Broadband Acquisition. Applicants state that control of GTCR is held by the Managing Directors of GTCR, all U.S. citizens. *Id.* Certain entities affiliated or under common management with GTCR also hold a 10% or greater direct or indirect equity interest in the following telecommunications-related entities: Consumer Cellular, Inc., which provides resold CMRS service, including between the U.S. and points abroad pursuant to an international section 214 authorization; Mega Broadband Investments Holdings, LLC, which, through its subsidiaries, provides video, broadband Internet access, and interconnected VoIP services in 16 states; Gogo, Inc., which provides broadband and other connectivity solutions to the business aviation market; and Clearwave Fiber LLC, which, with its subsidiaries, provides telecommunications services and other services in 5 states. *Id.* at 13.

¹⁰ *Id.* at 3. Applicants state that Berkshire Fund X, the primary Berkshire investment fund investing in Point Broadband, is held by the 32 Managing Members of Berkshire Partners, all of whom are U.S. citizens. *Id.* At 3, Exh. A, Chart 3: Post-Close Ownership of Point Broadband Acquisition.

¹¹ *Id.* at 8.

10% or more of BP Broadband also directly or indirectly owns or controls 10% or more of another telecommunications provider in the United States.¹²

Pursuant to the Unit Purchase Agreement, Point Broadband will issue and sell to BP Broadband new securities constituting 31.8% of the full-diluted equity interests of Point Broadband.¹³ Thus, following BP Broadband's full investment and the consummation of the Transaction, BP Broadband will hold approximately 31.8% of the fully-diluted equity interests of Point Broadband and GTCR will hold approximately 40.0% of the fully-diluted equity interests of Point Broadband.¹⁴ Applicants state that "GTCR currently controls a majority of the Board and as a result of the Transaction, GTCR's control of Point Broadband will be diluted and post-closing control will be exercised jointly by GTCR and BP Broadband through their minority equity investments, joint control of the Board, and the exercise of their mutual consent rights."¹⁵

Applicants assert that a grant of the Application would serve the public interest, convenience, and necessity, and that BP Broadband's capital investment will enhance the Licensees' ability to meet their service obligations for their CAF and RDOF locations under the company's existing management.¹⁶ Because the proposed transaction would involve the exchange and assumption of Universal Service Fund high-cost mechanism obligations, we accept the Application for non-streamlined processing in order to sufficiently analyze whether the proposed transaction would serve the public interest.¹⁷

Domestic Section 214 Application Filed for the Transfer of Control of
Point Broadband Holdings, LLC, to BP Broadband Aggregator, L.P.,
WC Docket No. 23-52 (filed Feb. 10, 2023).

GENERAL INFORMATION

The application identified herein has been found, upon initial review, to be acceptable for filing. The Commission reserves the right to return any application if, upon further examination, it is determined to be defective and not in conformance with the Commission's rules and policies.

Interested parties may file comments **on or before March 24, 2023**, and reply comments **on or before March 31, 2023**. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by paper.

- **Electronic Filers:** Comments may be filed electronically by accessing ECFS at <http://apps.fcc.gov/ecfs/>.
- **Paper Filers:** Parties who choose to file by paper must file an original and one copy of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or

¹² *Id.* at 13.

¹³ *Id.* at 5.

¹⁴ *Id.* at 6.

¹⁵ *Id.*

¹⁶ *Id.* at 7-8.

¹⁷ *See* 47 CFR § 63.03(c)(1)(v).

rulemaking number.

- Filings can be sent by commercial overnight courier or by first-class or overnight U.S. Postal Service mail.¹⁸ All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.
- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701. U.S. Postal Service first-class, Express, and Priority mail must be addressed to 45 L Street, NE, Washington, DC 20554.

People with Disabilities: We ask that requests for accommodations be made as soon as possible in order to allow the agency to satisfy such requests whenever possible. Send an email to fcc504@fcc.gov or call the Consumer and Governmental Affairs Bureau at (202) 418-0530.

In addition, e-mail one copy of each pleading to each of the following:

- 1) Dennis Johnson, Competition Policy Division, Wireline Competition Bureau, dennis.johnson@fcc.gov;
- 2) Tracey Wilson, Competition Policy Division, Wireline Competition Bureau, tracey.wilson@fcc.gov;
- 3) David Krech, International Bureau, david.krech@fcc.gov; and
- 4) Jim Bird, Office of General Counsel, jim.bird@fcc.gov.

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The proceeding in this Notice shall be treated as a “permit-but-disclose” proceeding in accordance with the Commission’s *ex parte* rules. Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter’s written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with rule 1.1206(b), 47 CFR § 1.1206(b). Participants in this proceeding should familiarize themselves with the Commission’s *ex parte* rules.

To allow the Commission to consider fully all substantive issues regarding the application in as timely and efficient a manner as possible, petitioners and commenters should raise all issues in

¹⁸ Effective March 19, 2020, and until further notice, the Commission no longer accepts any hand or messenger delivered filings. This is a temporary measure taken to help protect the health and safety of individuals, and to mitigate the transmission of COVID-19. See *FCC Announces Closure of FCC Headquarters Open Window and Change in Hand-Delivery Policy*, Public Notice, 35 FCC Rcd 2788 (OS 2020).

their initial filings. New issues may not be raised in responses or replies.¹⁹ A party or interested person seeking to raise a new issue after the pleading cycle has closed must show good cause why it was not possible for it to have raised the issue previously. Submissions after the pleading cycle has closed that seek to raise new issues based on new facts or newly discovered facts should be filed within 15 days after such facts are discovered. Absent such a showing of good cause, any issues not timely raised may be disregarded by the Commission. For further information, please contact Dennis Johnson, Wireline Competition Bureau, (202) 418-0809.

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¹⁹ See 47 CFR § 1.45(c).